

ORIGINAL

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ORIGINAL

November 14, 2000

RECEIVED

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

VIA HAND DELIVERY

Magalie R. Salas, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Notice of *Ex Parte* Presentation by e.spire Communications, Inc.
CC Docket No. 00-217

Dear Ms. Salas:

Pursuant to Sections 1.1206(b)(1) and (2) of the Commission's Rules, e.spire Communications, Inc. ("e.spire") by its attorneys, submits this notice in the above-captioned docketed proceeding of an oral *ex parte* presentation made and written *ex parte* materials distributed on November 13, 2000 during a meeting with the following individuals in connection with the above referenced docket: Tom Navin, Common Carrier Bureau, Office of Planning and Policy; John Stanley, Common Carrier Bureau, Office of Planning and Policy; Trent Harkrader, Enforcement Bureau; Ben Childers, Common Carrier Bureau, Office of Planning and Policy; Aaron Goldschmidt, Common Carrier Bureau, Competitive Pricing Division; Richard Kwiatkowski, Common Carrier Bureau, Competitive Pricing Division; Adam Candeub, Common Carrier Bureau, Competitive Pricing Division; Lloyd Collier, Common Carrier Bureau, Competitive Pricing Division; and Rhonda Lien, Common Carrier Bureau, Competitive Pricing Division. The presentation was made by James Falvey, Senior V.P., Regulatory Affairs of e.spire; Mark Becker, Director, Regulatory Affairs of e.spire; J. Scott Nicholls, Director, Carrier Relations of e.spire; and Ross A. Buntrock of Kelley Drye & Warren LLP. Copies of the written materials distributed at the meeting are attached hereto.

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KELLEY DRYE & WARREN LLP

Magalie R. Salas
November 14, 2000
Page Two

During the presentation, the parties discussed the need for the Commission to address SBC's unwieldy and illegal process for converting special access circuits to enhanced extended links, which contravenes Checklist Item 2 of Section 271 and violates paragraph 30 of the Commission's Supplemental Order Clarification.¹ In addition, the parties discussed that fact that by withholding reciprocal compensation payments from e.spire and similarly situated carriers, SBC's application fails to satisfy the criteria necessary to satisfy Checklist Item 13 governing Reciprocal Compensation.

Pursuant to Sections 1.1206(b)(1) and (2), an original and two copies of this *ex parte* notification (with attachments) are provided for inclusion in the public record of the proceeding. Please direct any questions regarding this matter to the undersigned.

Respectfully submitted,

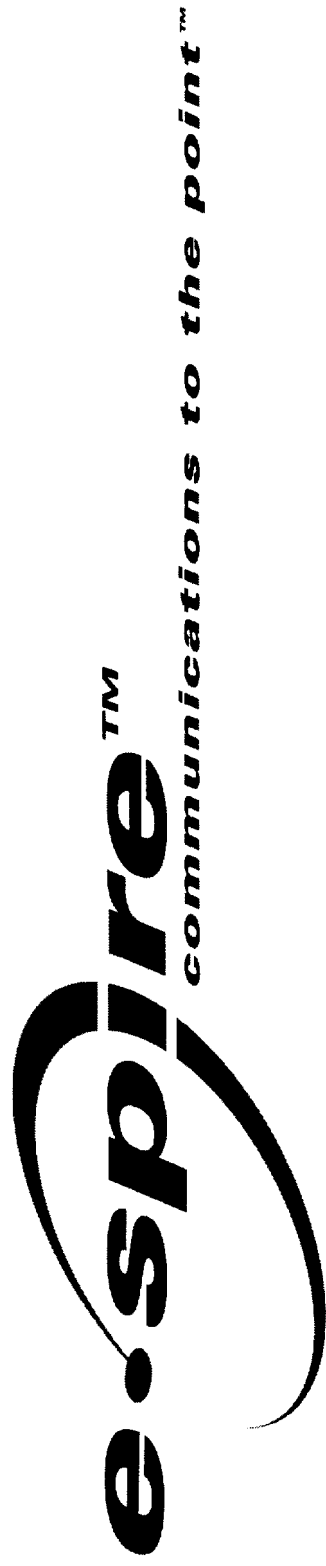


Ross A. Buntrock

Attachments

cc: FCC Attendees Listed Above
International Transcription Services

¹ See *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, Supplemental Order Clarification (rel. June 2, 2000).



SBC- Joint Kansas/Oklahoma 271

Application

James Falvey, Senior V.P., Regulatory Affairs

Mark Becker, Director, Regulatory Affairs

J. Scott Nicholls, Director, Carrier Relations

Ross Buntrock, Kelley Drye & Warren, LLP

November 13, 2000

Overview

- Background regarding e.spire
- EEL Conversion process
- Reciprocal compensation

Who Is e.spire Communications?

- Leading Integrated Communications Provider to small, medium sized businesses
- Voice services in 38 states, 48 U.S. markets

EEL Conversion Process: Special Access to EEL

- SWBT Ordering Process Contravenes the FCC's *Supplemental Order Clarification* and the *UNE Remand Order and Supplemental Order*.
- SWBT Requires Carriers to Submit 2 Orders (ASR & LSR) to Convert a Single Circuit
- SWBT Imposes Additional Onerous Requirements
- e.spire has been Unable to Convert a single circuit to an EEL due to SWBT's Refusal to Accept e.spire's ASR

EEL Conversion Process: Special Access to EEL

- SWBT's process clearly violates the Commission's Orders
- "We continue to believe that the Access Service Request process will allow requesting carriers to avoid material provisioning delays and unnecessary costs to integrate unbundled loop-transport combinations into their networks, and expect that carriers will use this process for conversions."

Supplemental Order Clarification

Reciprocal Compensation: Checklist

Item 13

- SWBT owes e.spire Reciprocal Compensation based on ISP and traffic measurement.
- SWBT is re-litigating ISP issue in OK, AR and MO.
- SWBT admits they have a “tough row to hoe in persuading the Commission to determine that ISP/Internet-bound calls are excluded from reciprocal compensation under the e.spire [Interconnection Agreement].”

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November 3, 2000

VIA COURIER

Mr. Frank Lamancusa
Deputy Division Chief
Market Disputes Resolution Division
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: SWBT EEL Ordering Procedures

Dear Mr. Lamancusa:

On behalf of e.spire Communications, Inc. ("e.spire"), I am writing to request that pursuant to Section 1.730(b) of the Commission's rules (47 C.F.R. § 1.730(b)), the Commission's Accelerated Docket Staff schedule and supervise pre-filing settlement negotiations between e.spire and Southwestern Bell Telephone Company ("SWBT") in connection with SWBT's imposition of an unreasonable, and indeed, illegal ordering process for competitive local exchange carriers seeking to convert existing special access circuits to EEL arrangements. As set forth more fully below, SWBT's EEL ordering requirements are in direct contravention of the Commission's *Supplemental Order Clarification*,¹ as well as the *UNE Remand Order* and *Supplemental Order*.² SWBT's refusal to work with e.spire to develop an EEL conversion process that complies with the Commission's orders has completely prevented

¹ See *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, Supplemental Order Clarification (rel. June 2, 2000).

² See *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, Third Report and Order and Fourth Further Notice of Proposed Rulemaking, 15 FCC Rcd 3696 (1999) ("*UNE Remand Order*") and *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, Supplemental Order (rel. Nov. 24, 1999) ("*Supplemental Order*").

Mr. Frank Lamancusa
November 3, 2000
Page Two

EEL provisioning to e.spire and imposed costs on e.spire that e.spire should be entitled to recover.

For the past eight months e.spire has attempted to negotiate with SWBT an EEL conversion ordering process that complies with the Commission's EEL orders. On February 18, 2000 e.spire wrote to SWBT to express its desire to work with SWBT to develop EEL conversion procedures, acceptable to both companies, that comply with the Commission's rules.³ Despite e.spire's attempt to collaborate with SWBT to develop these processes, SWBT's February 24, 2000 reply to e.spire unilaterally set forth a "two step reconfiguration process" which would require e.spire and other requesting carriers to submit an ASR requesting disconnection of the special access circuit, which would then be removed from SWBT's inventory systems.⁴ Under SWBT's proposed conversion process, following submission of the ASR, e.spire would then be forced to submit an LSR. In other words, e.spire would need to submit two orders in order to convert a single circuit. Furthermore, SWBT indicated that e.spire would have to comply with several other onerous requirements for each conversion.⁵

Due to SWBT's insistence on onerous ordering procedures, e.spire has been unable to convert special access circuits to EELs. On March 24, 2000 Mark Koppersmith, Vice President, Carrier Management for e.spire provided SWBT, pursuant to discussions between the companies, a spreadsheet setting forth an initial list of 142 special access circuits which e.spire sought to convert to EELs.⁶ SWBT refused to accept e.spire's ASR order.⁷ Over the next several months, e.spire engaged in a series of e-mail and telephonic exchanges with SWBT in an ultimately futile attempt to persuade SWBT to allow e.spire to convert its special access circuits to EELs using the ASR process, as the Commission ordered.

The Commission's EEL orders make it abundantly clear that SWBT's proposed EEL conversion process is wholly inappropriate. Specifically, SWBT's EEL conversion policy

³ See Letter of James C. Falvey, Vice President—Regulatory Affairs, e.spire to Jan Brainard, Director-Competitive Provider Account Team, February 18, 2000 (attached hereto as Attachment 1).

⁴ See Letter of Jan Brainard, Director-Competitive Provider Account Team to James C. Falvey, Vice President—Regulatory Affairs, e.spire, February 24, 2000 (attached hereto as Attachment 2).

⁵ See July 26, 2000 e-mail of Marilyn Patterson, SWBT Account Manager, to J. Scott Nicholls, Director of Carrier Relations, e.spire (attached hereto as Attachment 3, setting forth a five step process for special access conversions requiring extensive circuit identification information).

⁶ See March 24, 2000 e-mail of Mark Koppersmith, Vice President, Carrier Management, e.spire to Marilyn Patterson, SWBT Account Manager (attached hereto as Attachment 4).

⁷ See e.g. July 21, 2000 e-mail of Marilyn Patterson, SWBT Account Manager to J. Scott Nicholls, Director of Carrier Relations, e.spire (attached hereto as Attachment 5).

Mr. Frank Lamancusa
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Page Three

violates paragraph 30 of the Commission's *Supplemental Order Clarification*, which states in part that:

We agree with ALTS that once a requesting carrier certifies that it is providing a significant amount of local exchange service, the process by which special access circuits are converted to unbundled loop-transport combinations should be simple and accomplished without delay. We stated in the Third Report and Order that incumbent LECs and requesting carriers have developed routine provisioning procedures that can be used to deploy unbundled loop-transport combinations using the Access Service Request process, a process that carriers have used historically to provision access circuits. Under this process, the conversion should not require the special access circuit to be disconnected and re-connected because only the billing information or other administrative information associated with the circuit will change when a conversion is requested. We continue to believe that the Access Service Request process will allow requesting carriers to avoid material provisioning delays and unnecessary costs to integrate unbundled loop-transport combinations into their networks, and expect that carriers will use this process for conversions.

e.spire has complied with the EEL conversion process set forth by the Commission,⁸ but despite the clear language of the Commission's order, SWBT continues to maintain its untenable position—that it is entitled to require carriers to submit both an LSR and an ASR in order to convert existing special access circuits to EELs. SWBT offers no reason for flouting the Commission's order.

Due to the critical nature of the EEL to the implementation of e.spire's business plan, e.spire, as described herein, has engaged in extensive negotiations with SWBT, including contacting SWBT prior to the release of the *Supplemental Clarification Order*.⁹ Months of negotiations have proven unsuccessful and it is e.spire's position that further discussions with SWBT will be unproductive. Therefore, e.spire respectfully requests that in anticipation of filing a complaint in the Commission's Accelerated Docket that the Commission's Accelerated Docket staff schedule and supervise pre-filing settlement discussions with the parties. Please contact the

⁸ e.spire provided SWBT with its self-certification letter on August 8, 2000, and a copy is attached hereto as Attachment 6.

⁹ See Attachment 1.

KELLEY DRYE & WARREN LLP

Mr. Frank Lamancusa
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Page Four

undersigned to determine when such discussions could be scheduled. Thank you for your consideration.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ross A. Buntrock". The signature is fluid and cursive, with the first name "Ross" being more prominent.

Steven A. Augustino
Ross A. Buntrock

cc: Amy Wagner, SWBT (via Federal Express)
Attachments

ATTACHMENT 1

The logo for e-spire, featuring the word "e-spire" in a stylized font with a large, curved line arching over the "e" and "s".

February 18, 2000

VIA FACSIMILE (405) 236-7773 & EXPRESS MAIL

Amy Wagner, Esq.
Senior Counsel
Southwestern Bell Telephone
800 North Harvey, Room 310
Oklahoma City, OK 73102

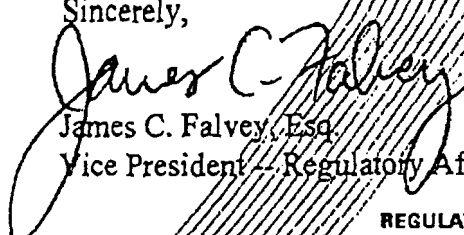
Dear Amy:

As you know, the FCC's UNE Remand Order, issued September 15, 1999, requires SWBT to make Enhanced Extended Links ("EELs") available as of February 17, 2000. e.spire Communications, Inc. ("e.spire") has requested from the Southwestern Bell ("SWBT") account team processes and procedures: (1) to convert special access circuits to Enhanced Extended Links ("EELs"); and (2) to order new EELs (or UNE-P) in Density Zone 1 in the 50 MSAs designated by the FCC. SWBT's response to e.spire's request indicated to e.spire that SWBT has not established processes and procedures either to convert special access circuits to EELs or to order new EELs pursuant to the FCC's Order.

e.spire has been and is prepared to convert a substantial number of special access circuits to EELs. Moreover, e.spire has been and is prepared to order new circuits as EELs. The UNE Remand Order was adopted on September 15, 1999, and SWBT has known since that date that it was required to make EELs available to its new entrant competitors. SWBT's failure to make conversion and other processes and procedures available to e.spire on a timely basis has made it impossible for e.spire to place substantial numbers of conversion and new orders by February 17. Accordingly, e.spire will make payment on its existing circuits in a manner consistent with the pricing that would have applied had SWBT complied with the UNE Remand Order on a timely basis. If SWBT will not correct its bills consistent with e.spire's payments, e.spire will seek immediate relief at the FCC. e.spire has received assurances that the FCC will require that ongoing CLEC service and new CLEC orders not be disrupted throughout this process.

e.spire is willing to work with SWBT as it attempts to establish procedures to accommodate EELs under the UNE Remand Order. Please contact Mark Koppersmith at (703)639-6344 or Scott Nicholls at (703)639-6340 concerning these procedures. Please contact me directly at 301-361-4298 to discuss any legal issues concerning this matter. Thank you for your prompt attention to this issue which is of critical concern to e.spire.

Sincerely,

A handwritten signature in dark ink, appearing to read "James C. Falvey".

James C. Falvey, Esq.
Vice President -- Regulatory Affairs

REGULATORY DEPARTMENT

e.spire Communications, Inc.

133 National Business Parkway, Suite 200

Annapolis Junction, Maryland 20701

phone 301.361.4200

fax 301.361.4277

www.espire.net

ATTACHMENT 2

Jan Bralhard
Director-Competitive
Provider Account Team

SBC Telecommunications, Inc.
Four Bell Plaza, 7th Floor
Dallas, Texas 75203
Phone 214 464-5145
Fax 214 464-1486



Via Facsimile

February 24, 2000

James C. Falvey, Esq.
Vice President - Regulatory Affairs
Regulatory Department
e.spire Communications, Inc.
133 National Business Parkway, Suite 200
Annapolis Junction, Maryland 20701

Re: e.spire's Request for Enhanced Extended Link

Dear Mr. Falvey:

This is in response to your letter to Ms. Amy Wagner dated February 18, 2000. I'd like to take this opportunity to correct some apparent misunderstandings and provide you information regarding the options available to e.spire in this regard.

In your letter, you state that the FCC's UNE Remand Order requires SWBT to make Enhanced Extended Links ("EELs") available as of February 17, 2000. You also note that e.spire has requested SWBT (1) to convert special access circuits to EELs; and (2) to order new EELs in Density Zone 1 in the 50 MSAs designated by the FCC.

To the contrary, in Paragraph 478 of its UNE Remand Order, the FCC specifically declined to define EEL as a separate network element. In so deciding, the FCC acknowledged that a number of parties, including CLECs, had argued that the FCC should identify a new network element comprised of an unbundled loop, multiplexing/concentrating equipment, and dedicated transport ("EEL"). However, the FCC provided incumbent LECs with some limited switching relief in certain instances where the incumbent LEC voluntarily agrees to offer EEL. Specifically, in Paragraph 278 of its UNE Remand Order, the FCC found that "requesting carriers are not impaired without access to unbundled local circuit switching when they serve customers with four or more lines in density zone 1 in the top 50 metropolitan statistical areas ("MSAs")...where incumbent LECs have provided nondiscriminatory, cost-based access to the enhanced extended link ("EEL") throughout density zone 1." As reflected in the UNE Remand Order, if SWBT desires the limited switching relief provided in such Order, SWBT must agree to offer EEL throughout density zone 1.

To date, SWBT has not made the decision to avail itself of the limited switching relief provided for in the UNE Remand Order, in exchange for agreeing to offer EEL. Therefore, SWBT has not been ordered to make available EELs under the FCC's UNE

Remand Order and unless SWBT elects to avail itself of the limited switching relief provided for in the Order, e.spire is not entitled to order new EELs in density zone 1 in the 50 MSAs designated by the FCC.

Nevertheless, you also state that e.spire has been and is prepared to reconfigure a substantial number of special access circuits to EELs and is prepared to order new circuits as EELs. You stated that because SWBT has known since September 15, 1999 that it was required to make EELs available to new entrant competitors and that "SWBT's failure to make conversion and other processes and procedures available to e.spire on a timely basis has made it impossible for e.spire to place substantial numbers of conversion and new orders by February 17, 2000," e.spire will make payment on its existing circuits in a manner consistent with the pricing that would have applied had SWBT complied with UNE Remand on a timely basis. Finally, you state that e.spire will seek immediate relief at the FCC if SWBT does not correct its bills consistent with e.spire's payments.

It appears that your allegations are based upon your inaccurate conclusion that the FCC ordered EELs in its UNE Remand Order. In addition, your allegation that SWBT has known since September 15, 1999 that it is required to make EELs available to CLECs is wholly without merit. The FCC's UNE Remand Order was released on November 5, 1999 and was subsequently published in the Federal Register on January 18, 2000, with certain portions becoming effective on February 17, 2000 and other portions becoming effective on May 17, 2000. Contrary to your assertions, SWBT has been in compliance with the UNE Remand Order since February 17, 2000 (as to those portions which became effective on that date), and will continue to comply with such Order. However, as set forth above, the FCC's Order did not in any way order that SWBT make EELs available to CLECs. Regardless, it could be that you are attempting to refer to the Supplemental Order the FCC released to its UNE Remand Order on November 24, 1999.

In its Supplemental Order, the FCC found that until resolution of its Fourth FNPRM, special access services may not be reconfigured to combinations of unbundled loops and transport network elements. However, the FCC found that this constraint does not apply if a carrier uses combinations of UNEs to provide a significant amount of local exchange service, in addition to exchange access service, to a particular customer.

If what e.spire is seeking is the ability to reconfigure special access services to combinations of unbundled loops and transport network elements in those instances where e.spire uses the combinations of such UNEs to provide a significant amount of local exchange service, in addition to exchange access service, to its customers in accordance with the FCC's Supplemental Order, then following is SWBT's position with respect to how such reconfigurations should be handled.

The qualification criteria and SWBT's self-certification processes for such reconfigurations are set forth in detail on its CLEC website at

<https://CLEC.sbc.com/clechb/unrestr/custguide> (under "UNE Remand Supplemental Information"). Please reference the CLEC web site for specific details in this regard.

SWBT has developed a two-step reconfiguration process. First, for the special access circuits, e.spire will need to submit an ASR requesting disconnection of the special access circuit. Upon receipt, SWBT will remove the circuit from its inventory systems, will cease to bill for such circuit(s) and will apply termination liability where appropriate. e.spire will then need to submit an LSR for the requested UNEs. Where e.spire is converting a special access DS1 circuit from an end user premise to collocation arrangement in a distant central office, e.spire will order the cross connect to collocation and the loop from the premise to the cage. SWBT will bill loop, transport, and the appropriate cross connect charges in addition to the applicable nonrecurring charges. Where e.spire is ordering loop and transport at different bandwidths, each individual element must be ordered. In this situation, appropriate multiplexing charges would also apply. e.spire must relate the orders and use a special Project identification as the orders may be processed by two different service centers. Upon receipt, SWBT will establish the facility in its inventory systems, will move or establish new UNE billing accounts and will tag the circuit(s) with a new ID. It is SWBT's position that any such reconfiguration should not require any amendment to our existing Interconnection Agreement unless the appropriate elements are not contained in the agreement.

In order to reconfigure special access to UNEs, it is SWBT's position that e.spire will need to follow the procedure specified above and on the CLEC website. SWBT would be pleased to meet with e.spire to discuss this process in detail and collaboratively plan the conversion of those special access circuits that qualify for conversion. Until e.spire complies with this process, we do not agree that it would be appropriate for e.spire to unilaterally convert its pricing of special access circuits to UNE pricing and would oppose any effort by e.spire in that regard.

If e.spire should wish to pursue its options under SWBT's reconfiguration process, we would urge you to contact Marty Felan, your SWBT Account Manager, on 214-464-4373, to make the necessary arrangements.

Yours very truly,

Jan Brannard

CC: Ms. Wagner
Ms. Felan

ATTACHMENT 3

-----Original Message-----

From: PATTERSON, MARILYN M (SWBT) [mailto:MP7569@txmail.sbc.com]

Sent: Wednesday, July 26, 2000 9:20 AM

To: Nicholls, Scott

Subject: RE: EELS (Conversions) again

Importance: High

Scott,

After reviewing the website, which outlines the procedures for the Access to UNE conversion, e.spire should:

Step 1: Complete the Certification Letter

Step 2: Complete the Certification Spreadsheet

Step 3: Complete the Reconfiguration Project Spreadsheet

Step 4: Submit ASRs to ASC (formerly the ICSC)

Step 5: Submit LSRs to LSC

All reconfiguration of Special Access to UNEs will be handled as projects. Therefore, to initiate this process, e.spire should submit the

Certification Letter and the Certification Spreadsheet to me. SWB will work

with e.spire to negotiate due dates. Keep in mind that eventhough Disconnect and Connect orders are required, the orders will be cross related

and processed together as though they are records orders.

Hope this helps. If you have other questions, please let me know.

Marilyn

ATTACHMENT 4

> -----Original Message-----

> From: Mark Koppersmith

> Sent: Friday, March 24, 2000 8:48 PM

> To: mp7569

> Cc: Scott Nicholls; Mike Parker; Jim Falvey

> Subject: espire EEL Conversions

>

> Marilyn,

>

> During your recent conversations and emails with J. Scott Nicholls you
> noted that Southwestern Bell has determined initially that e.spire should
> provide you a list of the circuits to be converted to EEL pricing and that
> Southwestern Bell would then determine what additional information it
> needs to complete the conversions. Accordingly, please find enclosed an
> initial list of special access circuits that e.spire would like converted
> to EEL pricing. Additional submissions for conversions may be submitted
> as we review our circuit inventory.

>

> I understand (again, based on emails to J. Scott Nicholls) that
> Southwestern Bell is reviewing its currently proposed process for
> managing the EEL conversions and is examining the use of a spreadsheet
> (and project manager approach) versus individual change form submissions
> for each circuit to be converted to EEL pricing. Based on how e.spire is
> working with other RBOCs using the spreadsheet exchange, we expect that
> the information in the spreadsheet should suffice for converting the
> circuits to EEL pricing without the need for complex and cumbersome per
> circuit change submissions, or introducing additional delays and risks
> into the process which might result from per circuit change requests.

>

> e.spire expects that the pricing for these special access circuits to be
> effective as of March 24, 2000. Based on discussion with you we are
> relying on statements that this is only a billing system change and will
> be transparent to e.spire's customers. Therefore, we expect that
> conversions of this type have been fully tested by Southwestern Bell and
> that no service impacts will be experienced.

>

> Mike Parker in my organization (703.639.6628) will be the point of contact
> within e.spire on this project. If you have any questions regarding the
> EEL conversions, please feel free to contact Mike, J. Scott Nicholls
> (703.639.6340) or myself (703.639.6344).
>
> Thank you in advance for your attention to these conversions.
>
>
> Respectfully,
>
>
> Mark Koppersmith
> Vice President, Carrier Management
>
> Attachment: EEL Conversion Matrix
>
> <<SWBT - EEL Submission.xls>>

Circuit ID

63/HCGS/031794//SW/
63/HCGS/031796//SW/
63/HCGS/031662//SW/
82/HCGS/028826///SW
63/HCGS/031801//SW/
63/HCGS/031910//SW/
63/HCGS/031648//SW/
63/HCGS/031773//SW/
63/HCGS/031892//SW/
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ATTACHMENT 5

-----Original Message-----

From: PATTERSON, MARILYN M (SWBT) [mailto:MP7569@txmail.sbc.com]
Sent: Friday, July 21, 2000 4:20 PM
To: Nicholls, Scott
Subject: RE: EELS (Conversions) again
Importance: High

Scott,

SWB is amenable to working with e.spire to accomplish conversion of your qualified Access circuits to UNEs. Our processes have not changed as a result of the UNE Remand, CC Docket No. 96-98 Supplemental Order Clarification released 6/2/00 with the exception that collocation is no longer required for option 3. Our process does not require an actual disconnection, and the process is relatively streamlined: certification, spreadsheet, LSR, & ASR. The process is outlined on the CLEC website with a revision date of 6/20/00.

While e.spire did send a list of circuits that it wished to convert to UNE, we are not aware to this date that e.spire has attempted to begin the conversion process by first, providing self-certification and secondly, working with SBC to begin a project for the passing of ASR/LSR orders, which are essentially "records" orders. Converting qualified circuits with this project process will insure that orders are cross related help to avoid service downtime.

We look forward to working with e.spire to accomplish the conversion of your qualified Access circuits to UNEs at your earliest convenience.

Sincerely,

Marilyn Patterson
Account Manager-
Select Accounts-LPAT
O 214.464.6475
P 888.438.8602

ATTACHMENT 6



August 8, 2000

Southwestern Bell Telephone
Attn: Tracy N. Turner, Esq.
208 S. Akard, 29th Floor
Dallas, TX 75202

Re: Notice of Self-Certification

Dear Mr. Turner

This is to notify Southwestern Bell Telephone ("SWBT") that e.spire Communications, Inc. ("e.spire") has self-certified that the special access circuits that e.spire has requested be converted to combinations of loops and transport (referred to as the enhanced extended links or EELs) are used to provide a significant amount of local exchange service, in addition to exchange access service, to the particular customers served by those facilities.

The Federal Communications Commission ("FCC"), in its Unbundled Network Elements ("UNE") Remand Order, *In The Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, Third Report and Order and Forth Notice of Proposed Rulemaking, FCC 99-238 (rel. Nov. 5, 1999), as modified by the UNE Remand Supplemental Order, *In The Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, Supplemental Order, FCC 99-370 (rel. Nov. 24, 1999), and as further clarified by the Supplemental Order Clarification, *In The Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, Supplemental Order Clarification, FCC 00-183 (rel. June 2, 2000) ordered incumbent LECs to permit telecommunications carriers to convert special access services to combinations of unbundled loops and transport elements, with one constraint. In the UNE Supplemental Remand Order, the FCC characterized the constraint as follows: "until resolution of [the FCC's] Fourth FNPRM ... interexchange carriers (IXCs) may not convert special access services to combinations of unbundled loops and transport network elements, whether or not the IXCs self-provide entrance facilities (or obtain them from third parties)." UNE Supplemental Remand Order at ¶¶2,4.

However, the FCC also limited the constraint, concluding that "[t]his constraint does not apply if an IXC uses combinations of unbundled network elements to provide a significant amount of local exchange service, in addition to exchange access service, to a

e.spire Communications, Inc.
343 West Manhattan Avenue
Santa Fe, NM 87501
phone 505.954.4186
fax 505.954.4190
www.espire.net

particular customer." *UNE Supplemental Remand Order* at ¶¶2,5; see *Supplemental Order Clarification* at ¶17 (extending period of temporary constraint). In addition, the FCC stated that the constraint does not:

affect the ability of competitive LECs to use combinations of loops and transport (referred to as the enhanced extended link) to provide local exchange service. It also does not affect the ability of competitive LECs that are collocated and have self-provided transport (or obtained it from third parties), but are purchasing unbundled loops, to provide exchange access service. As we stated in paragraph 48 of the *Third Report and Order and Fourth FNPRM*, such a competitive carrier is entitled to purchase unbundled loops in order to provide advanced services (e.g., interstate special access xDSL service). [footnote omitted] Finally, the constraint will have no effect on competitive LECs using long distance switches to provide local exchange service.

UNE Supplemental Remand Order at ¶5 [footnote omitted].

Moreover, the FCC stated that, "[b]ecause we intend that the constraint we identify in this Order to be limited in duration, we do not find it to be necessary for incumbent LECs and requesting carriers to undertake auditing processes to monitor whether or not requesting carriers are using unbundled network elements solely to provide exchange access service." *UNE Supplemental Remand Order* at n. 9. In addition, in its *Supplemental Order Clarification*, the FCC stated that "[w]e emphasize that incumbent LECs may not require a requesting carrier to submit to an audit prior to provisioning combinations of unbundled loop and transport network elements." *Supplemental Order Clarification* at ¶31 [footnote omitted]. Accordingly, the FCC allows requesting carriers to self-certify that they are providing a significant amount of local exchange service over combinations of unbundled loops and transport network elements. *UNE Supplemental Remand Order* at n. 9; see also *Supplemental Order Clarification* at ¶29, n.81. Furthermore, the FCC stated that self-certification "will not delay" the ability of competitive LECs "to convert these facilities to unbundled network element pricing, and [the FCC] will take swift enforcement action if [the FCC] become[s] aware that any incumbent LEC is unreasonably delaying the ability of a requesting carrier to make such conversions." *UNE Supplemental Remand Order* at n. 9. In its *Supplemental Order Clarification*, the FCC reiterated that "[w]e continue to believe that the Access Service Request process will allow requesting carriers to avoid material provisioning delays and unnecessary costs to integrate unbundled loop-transport combinations into their networks, and expect that carriers will use this process for conversions." *Supplemental Order Clarification* at ¶30.

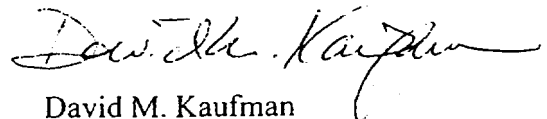
In making its self-certification, e.spire has been and continues to be fully aware of the constraint on uses of combinations of unbundled loop and transport network elements

imposed by the FCC and is in and will continue to be in full compliance with the constraint and other FCC requirements in this regard. Thus, there is no reasonable basis for SWBT to delay the conversions of unbundled loops and transport network elements to unbundled network element pricing that have been or will be requested by e.spire, and in the event of such delay, e.spire will immediately pursue such legal remedies as are available to it.

Finally, in accordance with the Supplemental Order Clarification, e.spire, during the ordering process, and for as long as it is required to do so by the FCC, will identify the appropriate circumstance that describes its provisioning of a "significant amount of local exchange service" to a particular customer. Supplemental Order Clarification at ¶ 22.

If you have any questions, please contact Jim Falvey at (301) 361-4298 or the undersigned at (505) 954-4186.

Respectfully,

A handwritten signature in dark ink, appearing to read "David M. Kaufman", with a stylized flourish at the end.

David M. Kaufman
Director of Regulatory Affairs

cc. Jim Falvey (via e-mail)
Mark Becker (via e-mail)
Scott Nichols (via e-mail)
Southwestern Bell Telephone
Interconnection Agreement Notice Addressees

CERTIFICATE OF MAILING

I hereby certify that I mailed a true and correct copy of the letters to Tracy N. Turner of Southwestern Bell Telephone Company from David M. Kaufman of e.spire Communications, Inc. dated August 8, 2000, referenced EEL Ordering and Conversion and Notice of Self-Certification, to the following Interconnection Agreement Notice Addressees this 9th day of August, 2000:

For Texas:

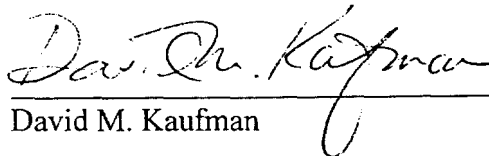
Jan Brainard
Southwestern Bell Telephone Company
One Bell Plaza, Room 525
Dallas, TX 75202

For Arkansas:

Area Manager, Competitive Provider Account Team
Southwestern Bell Telephone Company
One Bell Plaza
Room 525
Dallas, TX 75202

For Missouri, Kansas and Oklahoma:

Larry B. Cooper
General Manager-Competitive Provider
One Bell Plaza
Room 0525
Dallas, TX 75202


David M. Kaufman